

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Cowan Godfrey,

Case No. 22-cv-2284 (NEB/TNL)

Petitioner,

v.

**REPORT AND RECOMMENDATION**

Warden,

Respondent.

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Petitioner Cowan Godfrey has filed a petition for a writ of habeas corpus. *See* [ECF No. 1]. In an order dated November 1, 2022, this Court ordered Godfrey to show cause why his petition should not be dismissed for failure to first exhaust administrative remedies. *See* [ECF No. 5]. Godfrey was given until December 1, 2022, to respond, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has long passed, and Godfrey has not submitted any response to the Court's show cause order. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) ("A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

## RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,

**IT IS HEREBY RECOMMENDED** that this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: January 9, 2023

s/ Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge  
District of Minnesota

*Godfrey v. Warden*  
Case No. 22-cv-2284 (NEB/TNL)

## NOTICE

**Filing Objections:** This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).